THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 12th day of December,2007

W.P.No.3846 of 1999

Between:-

APSRTC rep. by its Managing
Director, Mushirabad, Hyderabad
and another … Petitioners

and

G. Ravinder & another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.3846 of 1999

ORDER:

This Writ Petition is filed challenging the Award dated 13-8-1998 made in I.D.No.13 of 1995 on the file of Labour Court-II, Hyderabad.

Petitioner is Management. Respondent No.1 is workman. It appears, respondent No.1 while working as a Conductor in A.P. State Road Transport Corporation was placed under suspension on 15-3-1989 pending enquiry into the following charges:

> "(1) For having arrested by the police and remanded to the judicial custody which is not intimated by you, which constitutes misconduct in terms of Regulation 26 of APSRTC Employees' (Conduct) Regulations,1963;
>
> (2) For having hiding the fact for his absenteeism which is a misconduct as per Regulation 29(xxii) of APSRTC Employees' (Conduct) Regulations,1963."

After conducting a detailed enquiry into the matter, disciplinary authority passed an order of removal from service on 20-8-1992. Aggrieved thereby, respondent-workman carried the matter in appeal; however, the same was rejected on 23-7-1994. Ultimately, respondent No.1-workman raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before Labour Court-II, Hyderabad. It was his case before the Labour Court that the enquiry was not properly conducted and no opportunity was given to him and absolutely there was no evidence to hold him guilty of the charges. Assuming that there is some misconduct on his part, punishment of dismissal from service is disproportionate to that of the misconduct

alleged. Petitioner-management filed a detailed counter before the Labour Court denying the allegations made by the workman. No oral or documentary evidence was adduced by either party. However, on a detailed consideration of the material made available before it, Labour Court came to the conclusion that though the charges were proved, punishment of removal from service is disproportionate to that of the misconduct proved. Therefore, while setting aside the removal order, directed reinstatement of the workman with continuity of service, attendant benefits and 25% of back wages. Questioning the same, the present Writ Petition is filed.

Learned counsel for the petitioners strenuously contended that the Labour Court having held that the charges were proved, ought not to have directed reinstatement of the workman with continuity of service, all attendant benefits and 25% of back wages and the same is arbitrary and illegal. Respondent-workman was not entitled for such a relief, in the facts and circumstances of the case.

Per contra, Sri P. Raghavender Reddy, learned counsel for the 1st respondent, supported the Award made by the Labour Court and submitted that even assuming that there is any misconduct, the same is trivial in its nature and as such, Labour Court directed reinstatement of respondent No.1 by denying 75% of back wages, which itself is a punishment, which the 1st respondent does not deserve.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

The charge as such is only as to suppression of information by the workman as to his arrest by the police for being involved in an offence of riot in his village. It appears, respondent-workman submitted a detailed explanation on the very next day stating that he

was arrested by the police on 4-1-1989 for a trivial offence alleged against him and as soon as he was released, he reported for duty etc. However, Labour Court found that the charge as to suppression of fact of arrest was proved; but, in the facts and circumstances of the case, since the charge was very trivial in its nature, while exercising its powers under Section 11-A of the Act directed reinstatement of the workman with continuity of service, attendant benefits and 25% of back wages. In a case of this nature, though the charge is trivial, that does not mean that the workman also could have been blessed with awarding of 25% of back wages. Involving into a criminal case is on his (workman's) volition and he cannot blame the Department. Further, he had suppressed information as to his arrest. Under those circumstances, I am of the opinion that the Labour Court ought not to have granted 25% of back wages to the workman. Therefore, the impugned Award is liable to be modified and is modified to the following effect:

> "In the result, the workman is entitled for reinstatement with continuity of service and other attendant benefits, but without any back wages. Further, it is made clear that the workman is entitled only for notional benefits till the disposal of the Writ Petition i.e. 12-12-2007".

Accordingly, the Writ Petition is disposed of. No order as to costs.

12-12-2007

prk